

AMENDED IN SENATE APRIL 19, 2007

**SENATE BILL**

**No. 172**

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**Introduced by Senator Alquist**

February 5, 2007

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~~An act to amend Section 311.4 of the Penal Code, relating to criminal sentencing~~ *An act to amend Sections 290, 290.46, 3000, 5054.1, and 5054.2 of, and to amend and renumber Sections 288.3 and 3005 of, the Penal Code, relating to sex offender, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 172, as amended, Alquist. Crimes: ~~sentencing~~ sex offenders.

~~Existing law describes the punishment for a person who uses a minor to possess or transport obscene matter with the intent to distribute the obscene matter in two separate sections of codified law.~~

~~This bill would eliminate the description of the punishment from one of the sections of codified law.~~

*Existing law provides for various penalty provisions related to sex offenders.*

*This bill would make nonsubstantive, conforming changes to those provisions.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 288.3 of the Penal Code, as added by*  
2     *Section 7 of Chapter 337 of the Statutes of 2006, is amended and*  
3     *renumbered to read:*

4     ~~288.3.~~

5     288.4. (a) (1) Every person who, motivated by an unnatural  
6     or abnormal sexual interest in children, arranges a meeting with a  
7     minor or a person he or she believes to be a minor for the purpose  
8     of exposing his or her genitals or pubic or rectal area, having the  
9     child expose his or her genitals or pubic or rectal area, or engaging  
10    in lewd or lascivious behavior, shall be punished by a fine not  
11    exceeding five thousand dollars (\$5,000), by imprisonment in a  
12    county jail not exceeding one year, or by both the fine and  
13    imprisonment.

14    (2) Every person who violates this subdivision after a prior  
15    conviction for an offense listed in subparagraph (A) of paragraph  
16    (2) of subdivision (a) of Section 290 shall be punished by  
17    imprisonment in the state prison.

18    (b) Every person described in paragraph (1) of subdivision (a)  
19    who goes to the arranged meeting place at or about the arranged  
20    time, shall be punished by imprisonment in the state prison for  
21    two, three, or four years.

22    (c) Nothing in this section shall preclude or prohibit prosecution  
23    under any other provision of law.

24    *SEC. 2. Section 290 of the Penal Code is amended to read:*

25    290. (a) (1) (A) Every person described in paragraph (2), for  
26    the rest of his or her life while residing in California, or while  
27    attending school or working in California, as described in  
28    subparagraph (G), shall be required to register with the chief of  
29    police of the city in which he or she is residing, or the sheriff of  
30    the county if he or she is residing in an unincorporated area or city  
31    that has no police department, and, additionally, with the chief of  
32    police of a campus of the University of California, the California  
33    State University, or community college if he or she is residing  
34    upon the campus or in any of its facilities, within five working  
35    days of coming into, or changing his or her residence within, any  
36    city, county, or city and county, or campus in which he or she  
37    temporarily resides.

1 (B) If the person who is registering has more than one residence  
2 address at which he or she regularly resides, he or she shall register  
3 in accordance with subparagraph (A) in each of the jurisdictions  
4 in which he or she regularly resides, regardless of the number of  
5 days or nights spent there. If all of the addresses are within the  
6 same jurisdiction, the person shall provide the registering authority  
7 with all of the addresses where he or she regularly resides.

8 (C) Every person described in paragraph (2), for the rest of his  
9 or her life while living as a transient in California shall be required  
10 to register, as follows:

11 (i) A transient must register, or reregister if the person has  
12 previously registered, within five working days from release from  
13 incarceration, placement or commitment, or release on probation,  
14 pursuant to paragraph (1) of subdivision (a), except that if the  
15 person previously registered as a transient less than 30 days from  
16 the date of his or her release from incarceration, he or she does  
17 not need to reregister as a transient until his or her next required  
18 30-day update of registration. If a transient is not physically present  
19 in any one jurisdiction for five consecutive working days, he or  
20 she must register in the jurisdiction in which he or she is physically  
21 present on the fifth working day following release, pursuant to  
22 paragraph (1) of subdivision (a). Beginning on or before the 30th  
23 day following initial registration upon release, a transient must  
24 reregister no less than once every 30 days thereafter. A transient  
25 shall register with the chief of police of the city in which he or she  
26 is physically present within that 30-day period, or the sheriff of  
27 the county if he or she is physically present in an unincorporated  
28 area or city that has no police department, and additionally, with  
29 the chief of police of a campus of the University of California, the  
30 California State University, or community college if he or she is  
31 physically present upon the campus or in any of its facilities. A  
32 transient must reregister no less than once every 30 days regardless  
33 of the length of time he or she has been physically present in the  
34 particular jurisdiction in which he or she reregisters. If a transient  
35 fails to reregister within any 30-day period, he or she may be  
36 prosecuted in any jurisdiction in which he or she is physically  
37 present.

38 (ii) A transient who moves to a residence shall have five working  
39 days within which to register at that address, in accordance with  
40 subparagraph (A) of paragraph (1) of subdivision (a). A person

1 registered at a residence address in accordance with subparagraph  
2 (A) of paragraph (1) of subdivision (a), who becomes transient  
3 shall have five working days within which to reregister as a  
4 transient in accordance with clause (i).

5 (iii) Beginning on his or her first birthday following registration,  
6 a transient shall register annually, within five working days of his  
7 or her birthday, to update his or her registration with the entities  
8 described in clause (i). A transient shall register in whichever  
9 jurisdiction he or she is physically present on that date. At the  
10 30-day updates and the annual update, a transient shall provide  
11 current information as required on the Department of Justice annual  
12 update form, including the information described in subparagraphs  
13 (A) to (C), inclusive, of paragraph (2) of subdivision (e), and the  
14 information specified in clause (iv).

15 (iv) A transient shall, upon registration and reregistration,  
16 provide current information as required on the Department of  
17 Justice registration forms, and shall also list the places where he  
18 or she sleeps, eats, works, frequents, and engages in leisure  
19 activities. If a transient changes or adds to the places listed on the  
20 form during the 30-day period, he or she does not need to report  
21 the new place or places until the next required reregistration.

22 (v) Failure to comply with the requirement of reregistering every  
23 30 days following initial registration pursuant to clause (i) of this  
24 subparagraph shall be punished in accordance with paragraph (6)  
25 of subdivision (g). Failure to comply with any other requirement  
26 of this section shall be punished in accordance with either  
27 paragraph (1) or (2) of subdivision (g).

28 (vi) A transient who moves out of state shall inform, in person,  
29 the chief of police in the city in which he or she is physically  
30 present, or the sheriff of the county if he or she is physically present  
31 in an unincorporated area or city that has no police department,  
32 within five working days, of his or her move out of state. The  
33 transient shall inform that registering agency of his or her planned  
34 destination, residence or transient location out of state, and any  
35 plans he or she has to return to California, if known. The law  
36 enforcement agency shall, within three days after receipt of this  
37 information, forward a copy of the change of location information  
38 to the Department of Justice. The department shall forward  
39 appropriate registration data to the law enforcement agency having  
40 local jurisdiction of the new place of residence or location.

(vii) For purposes of this section, “transient” means a person who has no residence. “Residence” means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

(viii) The transient registrant’s duty to update his or her registration no less than every 30 days shall begin with his or her second transient update following the date this subdivision became effective.

(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e). *The registering agency shall give the registrant a copy of the registration requirements from the Department of Justice form.*

(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).~~The registering agency shall give the registrant a copy of the completed Department of Justice form each time the person registers or reregisters, including at the annual update.~~

(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance

1 with subparagraph (A). Persons described in paragraph (2) who  
2 are out-of-state residents enrolled in any educational institution in  
3 California, as defined in Section 22129 of the Education Code, on  
4 a full-time or part-time basis, shall register in accordance with  
5 subparagraph (A). The place where the out-of-state resident is  
6 located, for purposes of registration, shall be the place where the  
7 person is employed, carrying on a vocation, or attending school.  
8 The out-of-state resident subject to this subparagraph shall, in  
9 addition to the information required pursuant to subdivision (e),  
10 provide the registering authority with the name of his or her place  
11 of employment or the name of the school attended in California,  
12 and his or her address or location in his or her state of residence.  
13 The registration requirement for persons subject to this  
14 subparagraph shall become operative on November 25, 2000. The  
15 terms “employed or carries on a vocation” include employment  
16 whether or not financially compensated, volunteered, or performed  
17 for government or educational benefit.

18 (2) The following persons shall be required to register pursuant  
19 to paragraph (1):

20 (A) Any person who, since July 1, 1944, has been or is hereafter  
21 convicted in any court in this state or in any federal or military  
22 court of a violation of Section 187 committed in the perpetration,  
23 or an attempt to perpetrate, rape or any act punishable under  
24 Section 286, 288, 288a, or 289, Section 207 or 209 committed  
25 with intent to violate Section 261, 286, 288, 288a, or 289, Section  
26 220, except assault to commit mayhem, Section 243.4, paragraph  
27 (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or  
28 paragraph (1) of subdivision (a) of Section 262 involving the use  
29 of force or violence for which the person is sentenced to the state  
30 prison, Section 264.1, 266, or 266c, subdivision (b) of Section  
31 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285,  
32 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, or 289, Section 311.1,  
33 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,  
34 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of  
35 Section 653f, subdivision 1 or 2 of Section 314, any offense  
36 involving lewd or lascivious conduct under Section 272, or any  
37 felony violation of Section 288.2; or any statutory predecessor that  
38 includes all elements of one of the above-mentioned offenses; or  
39 any person who since that date has been or is hereafter convicted

1 of the attempt or conspiracy to commit any of the above-mentioned  
2 offenses.

3 (B) Any person who, since July 1, 1944, has been or hereafter  
4 is released, discharged, or paroled from a penal institution where  
5 he or she was confined because of the commission or attempted  
6 commission of one of the offenses described in subparagraph (A).

7 (C) Any person who, since July 1, 1944, has been or hereafter  
8 is determined to be a mentally disordered sex offender under  
9 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2  
10 of Division 6 of the Welfare and Institutions Code or any person  
11 who has been found guilty in the guilt phase of a trial for an offense  
12 for which registration is required by this section but who has been  
13 found not guilty by reason of insanity in the sanity phase of the  
14 trial.

15 (D) (i) Any person who, since July 1, 1944, has been, or is  
16 hereafter convicted in any other court, including any state, federal,  
17 or military court, of any offense that, if committed or attempted  
18 in this state, would have been punishable as one or more of the  
19 offenses described in subparagraph (A), including offenses in  
20 which the person was a principal, as defined in Section 31.

21 (ii) Any person ordered by any other court, including any state,  
22 federal, or military court, to register as a sex offender for any  
23 offense, if the court found at the time of conviction or sentencing  
24 that the person committed the offense as a result of sexual  
25 compulsion or for purposes of sexual gratification.

26 (iii) (I) Except as provided in subclause (II), any person who  
27 would be required to register while residing in the state of  
28 conviction for a sex offense committed in that state.

29 (II) Notwithstanding subclause (I), a person convicted in another  
30 state of an offense similar to one of the following offenses who is  
31 required to register in the state of conviction shall not be required  
32 to register in California unless the out-of-state offense contains all  
33 of the elements of a registerable California offense described in  
34 subparagraph (A):

35 ~~(aa)~~

36 *(ia)* Indecent exposure, pursuant to Section 314.

37 ~~(ab)~~

38 *(ib)* Unlawful sexual intercourse, pursuant to Section 261.5.

39 ~~(ae)~~

40 *(ic)* Incest, pursuant to Section 285.

1     ~~(ad)~~

2     ~~(id)~~ Sodomy, pursuant to Section 286, or oral copulation,  
3 pursuant to Section 288a, provided that the offender notifies the  
4 Department of Justice that the sodomy or oral copulation conviction  
5 was for conduct between consenting adults, as described in  
6 subparagraph (G) and the department is able, upon the exercise of  
7 reasonable diligence, to verify that fact.

8     ~~(ae)~~

9     ~~(ie)~~ Pimping, pursuant to Section 266h, or pandering, pursuant  
10 to Section 266i.

11     (E) Any person ordered by any court to register pursuant to this  
12 section for any offense not included specifically in this section if  
13 the court finds at the time of conviction or sentencing that the  
14 person committed the offense as a result of sexual compulsion or  
15 for purposes of sexual gratification. The court shall state on the  
16 record the reasons for its findings and the reasons for requiring  
17 registration.

18     (F) Any person required to register pursuant to any provision  
19 of this section, regardless of whether the person's conviction has  
20 been dismissed pursuant to Section 1203.4, unless the person  
21 obtains a certificate of rehabilitation and is entitled to relief from  
22 registration pursuant to Section 290.5.

23     (G) (i) Notwithstanding any other subdivision, a person who  
24 was convicted before January 1, 1976, under subdivision (a) of  
25 Section 286, or Section 288a, shall not be required to register  
26 pursuant to this section for that conviction if the conviction was  
27 for conduct between consenting adults that was decriminalized by  
28 Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes  
29 of 1976. The Department of Justice shall remove that person from  
30 the Sex Offender Registry, and the person is discharged from his  
31 or her duty to register pursuant to ~~either of the following procedure~~  
32 ~~procedures~~:

33     (I) The person submits to the Department of Justice official  
34 documentary evidence, including court records or police reports,  
35 that demonstrate that the person's conviction pursuant to either of  
36 those sections was for conduct between consenting adults that was  
37 decriminalized; ~~or~~.

38     (II) The person submits to the department a declaration stating  
39 that the person's conviction pursuant to either of those sections  
40 was for consensual conduct between adults that has been



decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or

1 attempted commission of one of the offenses specified in  
2 subdivision (a) or is released from a state hospital to which he or  
3 she was committed as a mentally disordered sex offender under  
4 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2  
5 of Division 6 of the Welfare and Institutions Code, shall, prior to  
6 discharge, parole, or release, be informed of his or her duty to  
7 register under this section by the official in charge of the place of  
8 confinement or hospital, and the official shall require the person  
9 to read and sign any form that may be required by the Department  
10 of Justice, stating that the duty of the person to register under this  
11 section has been explained to the person. The official in charge of  
12 the place of confinement or hospital shall obtain the address where  
13 the person expects to reside upon his or her discharge, parole, or  
14 release and shall report the address to the Department of Justice.  
15 The official shall at the same time forward a current photograph  
16 of the person to the Department of Justice.

17 (2) The official in charge of the place of confinement or hospital  
18 shall give one copy of the form to the person and shall send one  
19 copy to the Department of Justice and one copy to the appropriate  
20 law enforcement agency or agencies having jurisdiction over the  
21 place the person expects to reside upon discharge, parole, or  
22 release. If the conviction that makes the person subject to this  
23 section is a felony conviction, the official in charge shall, not later  
24 than 45 days prior to the scheduled release of the person, send one  
25 copy to the appropriate law enforcement agency or agencies having  
26 local jurisdiction where the person expects to reside upon  
27 discharge, parole, or release; one copy to the prosecuting agency  
28 that prosecuted the person; and one copy to the Department of  
29 Justice. The official in charge of the place of confinement or  
30 hospital shall retain one copy.

31 (c) (1) Any person who is convicted in this state of the  
32 commission or attempted commission of any of the offenses  
33 specified in subdivision (a) and who is released on probation, shall,  
34 prior to release or discharge, be informed of the duty to register  
35 under this section by the probation department, and a probation  
36 officer shall require the person to read and sign any form that may  
37 be required by the Department of Justice, stating that the duty of  
38 the person to register under this section has been explained to him  
39 or her. The probation officer shall obtain the address where the  
40 person expects to reside upon release or discharge and shall report

1 within three days the address to the Department of Justice. The  
2 probation officer shall give one copy of the form to the person,  
3 send one copy to the Department of Justice, and forward one copy  
4 to the appropriate law enforcement agency or agencies having  
5 local jurisdiction where the person expects to reside upon his or  
6 her discharge, parole, or release.

7 (2) Any person who is convicted in this state of the commission  
8 or attempted commission of any of the offenses specified in  
9 subdivision (a) and who is granted conditional release without  
10 supervised probation, or discharged upon payment of a fine, shall,  
11 prior to release or discharge, be informed of the duty to register  
12 under this section in open court by the court in which the person  
13 has been convicted, and the court shall require the person to read  
14 and sign any form that may be required by the Department of  
15 Justice, stating that the duty of the person to register under this  
16 section has been explained to him or her. If the court finds that it  
17 is in the interest of the efficiency of the court, the court may assign  
18 the bailiff to require the person to read and sign forms under this  
19 section. The court shall obtain the address where the person expects  
20 to reside upon release or discharge and shall report within three  
21 days the address to the Department of Justice. The court shall give  
22 one copy of the form to the person, send one copy to the  
23 Department of Justice, and forward one copy to the appropriate  
24 law enforcement agency or agencies having local jurisdiction where  
25 the person expects to reside upon his or her discharge, parole, or  
26 release.

27 (d) (1) Any person who, on or after January 1, 1986, is  
28 discharged or paroled from the Department of Corrections and  
29 Rehabilitation to the custody of which he or she was committed  
30 after having been adjudicated a ward of the juvenile court pursuant  
31 to Section 602 of the Welfare and Institutions Code because of the  
32 commission or attempted commission of any offense described in  
33 paragraph (3) shall be subject to registration under the procedures  
34 of this section.

35 (2) Any person who is discharged or paroled from a facility in  
36 another state that is equivalent to the Division of Juvenile Justice,  
37 to the custody of which he or she was committed because of an  
38 offense which, if committed or attempted in this state, would have  
39 been punishable as one or more of the offenses described in

1 paragraph (3), shall be subject to registration under the procedures  
2 of this section.

3 (3) Any person described in this subdivision who committed  
4 an offense in violation of any of the following provisions shall be  
5 required to register pursuant to this section:

6 (A) Assault with intent to commit rape, sodomy, oral copulation,  
7 or any violation of Section 264.1, 288, or 289 under Section 220.

8 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of  
9 subdivision (a) of Section 261, Section 264.1, 266c, or 267,  
10 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,  
11 Section 286, Section 288 or 288.5, paragraph (1) of subdivision  
12 (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)  
13 of Section 289, or Section 647.6.

14 (C) A violation of Section 207 or 209 committed with the intent  
15 to violate Section 261, 286, 288, 288a, or 289.

16 (4) Prior to discharge or parole from the Department of  
17 Corrections and Rehabilitation, any person who is subject to  
18 registration under this subdivision shall be informed of the duty  
19 to register under the procedures set forth in this section. Department  
20 officials shall transmit the required forms and information to the  
21 Department of Justice.

22 (5) All records specifically relating to the registration in the  
23 custody of the Department of Justice, law enforcement agencies,  
24 and other agencies or public officials shall be destroyed when the  
25 person who is required to register has his or her records sealed  
26 under the procedures set forth in Section 781 of the Welfare and  
27 Institutions Code. This subdivision shall not be construed as  
28 requiring the destruction of other criminal offender or juvenile  
29 records relating to the case that are maintained by the Department  
30 of Justice, law enforcement agencies, the juvenile court, or other  
31 agencies and public officials unless ordered by a court under  
32 Section 781 of the Welfare and Institutions Code.

33 (e) (1) On or after January 1, 1998, upon incarceration,  
34 placement, or commitment, or prior to release on probation, any  
35 person who is required to register under this section shall  
36 preregister. The preregistering official shall be the admitting officer  
37 at the place of incarceration, placement, or commitment, or the  
38 probation officer if the person is to be released on probation. The  
39 preregistration shall consist of all of the following:

1 (A) A preregistration statement in writing, signed by the person,  
2 giving information that shall be required by the Department of  
3 Justice.

4 (B) The fingerprints and a current photograph of the person.

5 (C) Any person who is preregistered pursuant to this subdivision  
6 is required to be preregistered only once.

7 (2) A person described in paragraph (2) of subdivision (a) shall  
8 register, or reregister if the person has previously registered, upon  
9 release from incarceration, placement, commitment, or release on  
10 probation pursuant to paragraph (1) of subdivision (a). This  
11 paragraph shall not apply to a person who is incarcerated for less  
12 than 30 days if he or she has registered as required by paragraph  
13 (1) of subdivision (a), he or she returns after incarceration to the  
14 last registered address, and the annual update of registration that  
15 is required to occur within five working days of his or her birthday,  
16 pursuant to subparagraph (D) of paragraph (1) of subdivision (a),  
17 did not fall within that incarceration period. The registration shall  
18 consist of all of the following:

19 (A) A statement in writing signed by the person, giving  
20 information as shall be required by the Department of Justice and  
21 giving the name and address of the person's employer, and the  
22 address of the person's place of employment if that is different  
23 from the employer's main address.

24 (B) The fingerprints and a current photograph of the person  
25 taken by the registering official.

26 (C) The license plate number of any vehicle owned by, regularly  
27 driven by, or registered in the name of the person.

28 (D) Notice to the person that, in addition to the requirements of  
29 paragraph (4), he or she may have a duty to register in any other  
30 state where he or she may relocate.

31 (E) Copies of adequate proof of residence, which shall be limited  
32 to a California driver's license, California identification card, recent  
33 rent or utility receipt, printed personalized checks or other recent  
34 banking documents showing that person's name and address, or  
35 any other information that the registering official believes is  
36 reliable. If the person has no residence and no reasonable  
37 expectation of obtaining a residence in the foreseeable future, the  
38 person shall so advise the registering official and shall sign a  
39 statement provided by the registering official stating that fact.  
40 Upon presentation of proof of residence to the registering official

1 or a signed statement that the person has no residence, the person  
2 shall be allowed to register. If the person claims that he or she has  
3 a residence but does not have any proof of residence, he or she  
4 shall be allowed to register but shall furnish proof of residence  
5 within 30 days of the date he or she is allowed to register.

6 (3) Within three days thereafter, the preregistering official or  
7 the registering law enforcement agency or agencies shall forward  
8 the statement, fingerprints, photograph, and vehicle license plate  
9 number, if any, to the Department of Justice.

10 (f) (1) (A) Any person who was last registered at a residence  
11 address pursuant to this section who changes his or her residence  
12 address, whether within the jurisdiction in which he or she is  
13 currently registered or to a new jurisdiction inside or outside the  
14 state, shall, in person, within five working days of the move, inform  
15 the law enforcement agency or agencies with which he or she last  
16 registered of the move, the new address or transient location, if  
17 known, and any plans he or she has to return to California.

18 (B) If the person does not know the new residence address or  
19 location at the time of the move, the registrant shall, in person,  
20 within five working days of the move, inform the last registering  
21 agency or agencies that he or she is moving. The person shall later  
22 notify the last registering agency or agencies, in writing, sent by  
23 certified or registered mail, of the new address or location within  
24 five working days of moving into the new residence address or  
25 location, whether temporary or permanent.

26 (C) The law enforcement agency or agencies shall, within three  
27 working days after receipt of this information, forward a copy of  
28 the change of address information to the Department of Justice.  
29 The Department of Justice shall forward appropriate registration  
30 data to the law enforcement agency or agencies having local  
31 jurisdiction of the new place of residence.

32 (2) If the person's new address is in a Department of Corrections  
33 and Rehabilitation facility or state mental institution, an official  
34 of the place of incarceration, placement, or commitment shall,  
35 within 90 days of receipt of the person, forward the registrant's  
36 change of address information to the Department of Justice. The  
37 agency need not provide a physical address for the registrant but  
38 shall indicate that he or she is serving a period of incarceration or  
39 commitment in a facility under the agency's jurisdiction. This  
40 paragraph shall apply to persons received in a department facility

1 or state mental institution on or after January 1, 1999. The  
2 Department of Justice shall forward the change of address  
3 information to the agency with which the person last registered.

4 (3) If any person who is required to register pursuant to this  
5 section changes his or her name, the person shall inform, in person,  
6 the law enforcement agency or agencies with which he or she is  
7 currently registered within five working days. The law enforcement  
8 agency or agencies shall forward a copy of this information to the  
9 Department of Justice within three working days of its receipt.

10 (g) (1) Any person who is required to register under this section  
11 based on a misdemeanor conviction or juvenile adjudication who  
12 willfully violates any requirement of this section is guilty of a  
13 misdemeanor punishable by imprisonment in a county jail not  
14 exceeding one year.

15 (2) Except as provided in paragraphs (5), (7), and (9), any person  
16 who is required to register under this section based on a felony  
17 conviction or juvenile adjudication who willfully violates any  
18 requirement of this section or who has a prior conviction or juvenile  
19 adjudication for the offense of failing to register under this section  
20 and who subsequently and willfully violates any requirement of  
21 this section is guilty of a felony and shall be punished by  
22 imprisonment in the state prison for 16 months, or two or three  
23 years.

24 If probation is granted or if the imposition or execution of  
25 sentence is suspended, it shall be a condition of the probation or  
26 suspension that the person serve at least 90 days in a county jail.  
27 The penalty described in this paragraph shall apply whether or not  
28 the person has been released on parole or has been discharged from  
29 parole.

30 (3) Any person determined to be a mentally disordered sex  
31 offender or who has been found guilty in the guilt phase of trial  
32 for an offense for which registration is required under this section,  
33 but who has been found not guilty by reason of insanity in the  
34 sanity phase of the trial, or who has had a petition sustained in a  
35 juvenile adjudication for an offense for which registration is  
36 required under this section pursuant to subdivision (d), but who  
37 has been found not guilty by reason of insanity, who willfully  
38 violates any requirement of this section is guilty of a misdemeanor  
39 and shall be punished by imprisonment in a county jail not  
40 exceeding one year. For any second or subsequent willful violation

1 of any requirement of this section, the person is guilty of a felony  
2 and shall be punished by imprisonment in the state prison for 16  
3 months, or two or three years.

4 (4) If, after discharge from parole, the person is convicted of a  
5 felony or suffers a juvenile adjudication as specified in this  
6 subdivision, he or she shall be required to complete parole of at  
7 least one year, in addition to any other punishment imposed under  
8 this subdivision. A person convicted of a felony as specified in  
9 this subdivision may be granted probation only in the unusual case  
10 where the interests of justice would best be served. When probation  
11 is granted under this paragraph, the court shall specify on the record  
12 and shall enter into the minutes the circumstances indicating that  
13 the interests of justice would best be served by the disposition.

14 (5) Any person who has ever been adjudicated a sexually violent  
15 predator, as defined in Section 6600 of the Welfare and Institutions  
16 Code, and who fails to verify his or her registration every 90 days  
17 as required pursuant to subparagraph (E) of paragraph (1) of  
18 subdivision (a), shall be punished by imprisonment in the state  
19 prison, or in a county jail not exceeding one year.

20 (6) Except as otherwise provided in paragraph (5), any person  
21 who is required to register or reregister pursuant to clause (i) of  
22 subparagraph (C) of paragraph (1) of subdivision (a) and willfully  
23 fails to comply with the requirement that he or she reregister no  
24 less than every 30 days is guilty of a misdemeanor and shall be  
25 punished by imprisonment in a county jail at least 30 days, but not  
26 exceeding six months. A person who willfully fails to comply with  
27 the requirement that he or she reregister no less than every 30 days  
28 shall not be charged with this violation more often than once for  
29 a failure to register in any period of 90 days. Any person who  
30 willfully commits a third or subsequent violation of the  
31 requirements of subparagraph (C) of paragraph (1) of subdivision  
32 (a) that he or she reregister no less than every 30 days shall be  
33 punished in accordance with either paragraph (1) or (2) of this  
34 subdivision.

35 (7) Any person who fails to provide proof of residence as  
36 required by subparagraph (E) of paragraph (2) of subdivision (e),  
37 regardless of the offense upon which the duty to register is based,  
38 is guilty of a misdemeanor punishable by imprisonment in a county  
39 jail not exceeding six months.



1 (8) Any person who is required to register under this section  
2 who willfully violates any requirement of this section is guilty of  
3 a continuing offense as to each requirement he or she violated.

4 (9) In addition to any other penalty imposed under this  
5 subdivision, the failure to provide information required on  
6 registration and reregistration forms of the Department of Justice,  
7 or the provision of false information, is a crime punishable by  
8 imprisonment in a county jail for a period not exceeding one year.

9 (h) Whenever any person is released on parole or probation and  
10 is required to register under this section but fails to do so within  
11 the time prescribed, the parole authority or the court, as the case  
12 may be, shall order the parole or probation of the person revoked.  
13 For purposes of this subdivision, “parole authority” has the same  
14 meaning as described in Section 3000.

15 (i) Except as otherwise provided by law, the statements,  
16 photographs, and fingerprints required by this section shall not be  
17 open to inspection by the public or by any person other than a  
18 regularly employed peace officer or other law enforcement officer.

19 (j) In any case in which a person who would be required to  
20 register pursuant to this section for a felony conviction is to be  
21 temporarily sent outside the institution where he or she is confined  
22 on any assignment within a city or county including firefighting,  
23 disaster control, or of whatever nature the assignment may be, the  
24 local law enforcement agency having jurisdiction over the place  
25 or places where the assignment shall occur shall be notified within  
26 a reasonable time prior to removal from the institution. This  
27 subdivision shall not apply to any person who is temporarily  
28 released under guard from the institution where he or she is  
29 confined.

30 (k) As used in this section, “mentally disordered sex offender”  
31 includes any person who has been determined to be a sexual  
32 psychopath or a mentally disordered sex offender under any  
33 provision which, on or before January 1, 1976, was contained in  
34 Division 6 (commencing with Section 6000) of the Welfare and  
35 Institutions Code.

36 (l) (1) Every person who, prior to January 1, 1997, is required  
37 to register under this section, shall be notified whenever he or she  
38 next reregisters of the reduction of the registration period from 14  
39 to 5 working days. This notice shall be provided in writing by the  
40 registering agency or agencies. Failure to receive this notification

1 shall be a defense against the penalties prescribed by subdivision  
2 (g) if the person did register within 14 days.

3 (2) Every person who, as a sexually violent predator, as defined  
4 in Section 6600 of the Welfare and Institutions Code, is required  
5 to verify his or her registration every 90 days, shall be notified  
6 wherever he or she next registers of his or her increased registration  
7 obligations. This notice shall be provided in writing by the  
8 registering agency or agencies. Failure to receive this notice shall  
9 be a defense against the penalties prescribed by paragraph (5) of  
10 subdivision (g).

11 (m) The registration provisions of this section are applicable to  
12 every person described in this section, without regard to when his  
13 or her crime or crimes were committed or his or her duty to register  
14 pursuant to this section arose, and to every offense described in  
15 this section, regardless of when it was committed.

16 (n) On or before June 1, 2010, the Department of Justice shall  
17 renovate the VCIN to do the following:

18 (1) Correct all software deficiencies affecting data integrity and  
19 include designated data fields for all mandated sex offender data.

20 (2) Consolidate and simplify program logic, thereby increasing  
21 system performance and reducing system maintenance costs.

22 (3) Provide all necessary data storage, processing, and search  
23 capabilities.

24 (4) Provide law enforcement agencies with full Internet access  
25 to all sex offender data and photos.

26 (5) Incorporate a flexible design structure to readily meet future  
27 demands for enhanced system functionality, including public  
28 Internet access to sex offender information pursuant to Section  
29 290.46.

30 *SEC. 3. Section 290.46 of the Penal Code is amended to read:*

31 290.46. (a) (1) On or before the dates specified in this section,  
32 the Department of Justice shall make available information  
33 concerning persons who are required to register pursuant to Section  
34 290 to the public via an Internet Web site as specified in this  
35 section. The department shall update the Internet Web site on an  
36 ongoing basis. All information identifying the victim by name,  
37 birth date, address, or relationship to the registrant shall be  
38 excluded from the Internet Web site. The name or address of the  
39 person's employer and the listed person's criminal history other  
40 than the specific crimes for which the person is required to register

1 shall not be included on the Internet Web site. The Internet Web  
2 site shall be translated into languages other than English as  
3 determined by the department.

4 (2) (A) On or before July 1, 2010, the Department of Justice  
5 shall make available to the public, via an Internet Web site as  
6 specified in this section, as to any person described in subdivisions  
7 (b), (c), or (d), the following information:

8 (i) The year of conviction of his or her most recent offense  
9 requiring registration pursuant to Section 290.

10 (ii) The year he or she was released from incarceration for that  
11 offense.

12 (iii) Whether he or she was subsequently incarcerated for any  
13 other felony, if that fact is reported to the department. If the  
14 department has no information about a subsequent incarceration  
15 for any felony, that fact shall be noted on the Internet Web site.

16 However, no year of conviction shall be made available to the  
17 public unless the department also is able to make available the  
18 corresponding year of release of incarceration for that offense, and  
19 the required notation regarding any subsequent felony.

20 (B) (i) Any state facility that releases from incarceration a  
21 person who was incarcerated because of a crime for which he or  
22 she is required to register as a sex offender pursuant to Section  
23 290 shall, within 30 days of release, provide the year of release  
24 for his or her most recent offense requiring registration to the  
25 Department of Justice in a manner and format approved by the  
26 department.

27 (ii) Any state facility that releases a person who is required to  
28 register pursuant to Section 290 from incarceration whose  
29 incarceration was for a felony committed subsequently to the  
30 offense for which he or she is required to register shall, within 30  
31 days of release, advise the Department of Justice of that fact.

32 (iii) Any state facility that, prior to January 1, 2007, released  
33 from incarceration a person who was incarcerated because of a  
34 crime for which he or she is required to register as a sex offender  
35 pursuant to Section 290 shall provide the year of release for his or  
36 her most recent offense requiring registration to the Department  
37 of Justice in a manner and format approved by the department.  
38 The information provided by the Department of Corrections and  
39 Rehabilitation shall be limited to information that is currently  
40 maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice of that fact in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The *State* Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

(F) Subdivision (c) or (d) of Section 286.

(G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(H) Subdivision (c) or (d) of Section 288a.

(I) Section 288.3, provided that the offense is a felony.

1 (J) Section 288.4, provided that the offense is a felony.

2 ~~(J)~~

3 (K) Section 288.5.

4 ~~(K)~~

5 (L) Subdivision (a) or (j) of Section 289.

6 ~~(L)~~

7 (M) Section 288.7.

8 ~~(M)~~

9 (N) Any person who has ever been adjudicated a sexually violent  
10 predator, as defined in Section 6600 of the Welfare and Institutions  
11 Code.

12 (c) (1) On or before July 1, 2005, with respect to a person who  
13 has been convicted of the commission or the attempted commission  
14 of any of the offenses listed in paragraph (2), the Department of  
15 Justice shall make available to the public via the Internet Web site  
16 his or her name and known aliases, a photograph, a physical  
17 description, including gender and race, date of birth, criminal  
18 history, the community of residence and ZIP Code in which the  
19 person resides or the county in which the person is registered as a  
20 transient, and any other information that the Department of Justice  
21 deems relevant, but not the information excluded pursuant to  
22 subdivision (a). On or before July 1, 2006, the Department of  
23 Justice shall determine whether any person convicted of an offense  
24 listed in paragraph (2) also has one or more prior or subsequent  
25 convictions of an offense listed in paragraph (2) of subdivision (a)  
26 of Section 290, and, for those persons, the Department of Justice  
27 shall make available to the public via the Internet Web site the  
28 address at which the person resides. However, the address at which  
29 the person resides shall not be disclosed until a determination is  
30 made that the person is, by virtue of his or her additional prior or  
31 subsequent conviction of an offense listed in paragraph (2) of  
32 subdivision (a) of Section 290, subject to this subdivision.

33 (2) This subdivision shall apply to the following offenses:

34 (A) Section 220, except assault to commit mayhem.

35 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

36 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
37 (i), of Section 286.

38 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
39 (i), of Section 288a.

40 (E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

*(H) Section 288.4, provided that the offense is a misdemeanor.*

~~(H)~~

*(I) Section 626.81.*

~~(I)~~

*(J) Section 647.6.*

~~(J)~~

*(K) Section 653c.*

~~(K)~~

*(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.*

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in

1 county jail or state prison, his or her exclusion, or application for  
2 exclusion, from the Internet Web site shall be terminated.

3 (iv) For the purposes of this subparagraph, “successfully  
4 completed probation” means that during the period of probation  
5 the offender neither received additional county jail or state prison  
6 time for a violation of probation nor was convicted of another  
7 offense resulting in a sentence to county jail or state prison.

8 (3) If the department determines that a person who was granted  
9 an exclusion under a former version of this subdivision would not  
10 qualify for an exclusion under the current version of this  
11 subdivision, the department shall rescind the exclusion, make a  
12 reasonable effort to provide notification to the person that the  
13 exclusion has been rescinded, and, no sooner than 30 days after  
14 notification is attempted, make information about the offender  
15 available to the public on the Internet Web site as provided in this  
16 section.

17 (4) Effective January 1, 2012, no person shall be excluded  
18 pursuant to this subdivision unless the offender has submitted to  
19 the department documentation sufficient for the department to  
20 determine that he or she has a SARATSO risk level of low or  
21 moderate-low.

22 (f) The Department of Justice shall make a reasonable effort to  
23 provide notification to persons who have been convicted of the  
24 commission or attempted commission of an offense specified in  
25 subdivision (b), (c), or (d), that on or before July 1, 2005, the  
26 department is required to make information about specified sex  
27 offenders available to the public via an Internet Web site as  
28 specified in this section. The Department of Justice shall also make  
29 a reasonable effort to provide notice that some offenders are  
30 eligible to apply for exclusion from the Internet Web site.

31 (g) (1) A designated law enforcement entity, as defined in  
32 subdivision (f) of Section 290.45, may make available information  
33 concerning persons who are required to register pursuant to Section  
34 290 to the public via an Internet Web site as specified in paragraph  
35 (2).

36 (2) The law enforcement entity may make available by way of  
37 an Internet Web site the information described in subdivision (c)  
38 if it determines that the public disclosure of the information about  
39 a specific offender by way of the entity’s Internet Web site is



1 necessary to ensure the public safety based upon information  
2 available to the entity concerning that specific offender.

3 (3) The information that may be provided pursuant to this  
4 subdivision may include the information specified in subdivision  
5 (b) of Section 290.45. However, that offender's address may not  
6 be disclosed unless he or she is a person whose address is on the  
7 Department of Justice's Internet Web site pursuant to subdivision  
8 (b) or (c).

9 (h) For purposes of this section, "offense" includes the statutory  
10 predecessors of that offense, or any offense committed in another  
11 jurisdiction that, if committed or attempted to be committed in this  
12 state, would have been punishable in this state as an offense listed  
13 in subparagraph (A) of paragraph (2) of subdivision (a) of Section  
14 290.

15 (i) Notwithstanding Section 6254.5 of the Government Code,  
16 disclosure of information pursuant to this section is not a waiver  
17 of exemptions under Chapter 3.5 (commencing with Section 6250)  
18 of Title 1 of Division 7 of the Government Code and does not  
19 affect other statutory restrictions on disclosure in other situations.

20 (j) (1) Any person who uses information disclosed pursuant to  
21 this section to commit a misdemeanor shall be subject to, in  
22 addition to any other penalty or fine imposed, a fine of not less  
23 than ten thousand dollars (\$10,000) and not more than fifty  
24 thousand dollars (\$50,000).

25 (2) Any person who uses information disclosed pursuant to this  
26 section to commit a felony shall be punished, in addition and  
27 consecutive to any other punishment, by a five-year term of  
28 imprisonment in the state prison.

29 (k) Any person who is required to register pursuant to Section  
30 290 who enters an Internet Web site established pursuant to this  
31 section shall be punished by a fine not exceeding one thousand  
32 dollars (\$1,000), imprisonment in a county jail for a period not to  
33 exceed six months, or by both that fine and imprisonment.

34 (l) (1) A person is authorized to use information disclosed  
35 pursuant to this section only to protect a person at risk.

36 (2) Except as authorized under paragraph (1) or any other  
37 provision of law, use of any information that is disclosed pursuant  
38 to this section for purposes relating to any of the following is  
39 prohibited:

40 (A) Health insurance.

- 1 (B) Insurance.
- 2 (C) Loans.
- 3 (D) Credit.
- 4 (E) Employment.
- 5 (F) Education, scholarships, or fellowships.
- 6 (G) Housing or accommodations.
- 7 (H) Benefits, privileges, or services provided by any business
- 8 establishment.

9 (3) This section shall not affect authorized access to, or use of,  
10 information pursuant to, among other provisions, Sections 11105  
11 and 11105.3, Section 8808 of the Family Code, Sections 777.5  
12 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871  
13 of the Health and Safety Code, and Section 432.7 of the Labor  
14 Code.

15 (4) (A) Any use of information disclosed pursuant to this section  
16 for purposes other than those provided by paragraph (1) or in  
17 violation of paragraph (2) shall make the user liable for the actual  
18 damages, and any amount that may be determined by a jury or a  
19 court sitting without a jury, not exceeding three times the amount  
20 of actual damage, and not less than two hundred fifty dollars  
21 (\$250), and attorney's fees, exemplary damages, or a civil penalty  
22 not exceeding twenty-five thousand dollars (\$25,000).

23 (B) Whenever there is reasonable cause to believe that any  
24 person or group of persons is engaged in a pattern or practice of  
25 misuse of the information available via an Internet Web site  
26 established pursuant to this section in violation of paragraph (2),  
27 the Attorney General, any district attorney, or city attorney, or any  
28 person aggrieved by the misuse is authorized to bring a civil action  
29 in the appropriate court requesting preventive relief, including an  
30 application for a permanent or temporary injunction, restraining  
31 order, or other order against the person or group of persons  
32 responsible for the pattern or practice of misuse. The foregoing  
33 remedies shall be independent of any other remedies or procedures  
34 that may be available to an aggrieved party under other provisions  
35 of law, including Part 2 (commencing with Section 43) of Division  
36 1 of the Civil Code.

37 (m) The public notification provisions of this section are  
38 applicable to every person described in this section, without regard  
39 to when his or her crimes were committed or his or her duty to

1 register pursuant to Section 290 arose, and to every offense  
2 described in this section, regardless of when it was committed.

3 (n) On or before July 1, 2006, and every year thereafter, the  
4 Department of Justice shall make a report to the Legislature  
5 concerning the operation of this section.

6 (o) A designated law enforcement entity and its employees shall  
7 be immune from liability for good faith conduct under this section.

8 (p) The Attorney General, in collaboration with local law  
9 enforcement and others knowledgeable about sex offenders, shall  
10 develop strategies to assist members of the public in understanding  
11 and using publicly available information about registered sex  
12 offenders to further public safety. These strategies may include,  
13 but are not limited to, a hotline for community inquiries,  
14 neighborhood and business guidelines for how to respond to  
15 information posted on this Web site, and any other resource that  
16 promotes public education about these offenders.

17 *SEC. 4. Section 3000 of the Penal Code is amended to read:*

18 3000. (a) (1) The Legislature finds and declares that the period  
19 immediately following incarceration is critical to successful  
20 reintegration of the offender into society and to positive citizenship.  
21 It is in the interest of public safety for the state to provide for the  
22 supervision of and surveillance of parolees, including the judicious  
23 use of revocation actions, and to provide educational, vocational,  
24 family and personal counseling necessary to assist parolees in the  
25 transition between imprisonment and discharge. A sentence  
26 pursuant to Section 1168 or 1170 shall include a period of parole,  
27 unless waived, as provided in this section.

28 (2) The Legislature finds and declares that it is not the intent of  
29 this section to diminish resources allocated to the Department of  
30 Corrections *and Rehabilitation* for parole functions for which the  
31 department is responsible. It is also not the intent of this section  
32 to diminish the resources allocated to the Board of ~~Prison Terms~~  
33 *Parole Hearings* to execute its duties with respect to parole  
34 functions for which the board is responsible.

35 (3) The Legislature finds and declares that diligent effort must  
36 be made to ensure that parolees are held accountable for their  
37 criminal behavior, including, but not limited to, the satisfaction of  
38 restitution fines and orders.

39 (4) The parole period of any person found to be a sexually  
40 violent predator shall be tolled until that person is found to no

1 longer be a sexually violent predator, at which time the period of  
2 parole, or any remaining portion thereof, shall begin to run.

3 (b) Notwithstanding any provision to the contrary in Article 3  
4 (commencing with Section 3040) of this chapter, the following  
5 shall apply:

6 (1) At the expiration of a term of imprisonment of one year and  
7 one day, or a term of imprisonment imposed pursuant to Section  
8 1170 or at the expiration of a term reduced pursuant to Section  
9 2931 or 2933, if applicable, the inmate shall be released on parole  
10 for a period not exceeding three years, except that any inmate  
11 sentenced for an offense specified in paragraph (3), (4), (5), (6),  
12 (11), (16), or (18) of subdivision (c) of Section 667.5 shall be  
13 released on parole for a period not exceeding five years, unless in  
14 either case the parole authority for good cause waives parole and  
15 discharges the inmate from the custody of the department.

16 (2) In the case of any inmate sentenced under Section 1168, the  
17 period of parole shall not exceed five years in the case of an inmate  
18 imprisoned for any offense other than first or second degree murder  
19 for which the inmate has received a life sentence, and shall not  
20 exceed three years in the case of any other inmate, unless in either  
21 case the parole authority for good cause waives parole and  
22 discharges the inmate from custody of the department. This  
23 subdivision shall also be applicable to inmates who committed  
24 crimes prior to July 1, 1977, to the extent specified in Section  
25 1170.2.

26 (3) Notwithstanding paragraphs (1) and (2), in the case of any  
27 offense for which the inmate has received a life sentence pursuant  
28 to Section 667.61 or 667.71, the period of parole shall be 10 years.

29 (4) The parole authority shall consider the request of any inmate  
30 regarding the length of his or her parole and the conditions thereof.

31 (5) Upon successful completion of parole, or at the end of the  
32 maximum statutory period of parole specified for the inmate under  
33 paragraph (1), (2), or (3), as the case may be, whichever is earlier,  
34 the inmate shall be discharged from custody. The date of the  
35 maximum statutory period of parole under this subdivision and  
36 paragraphs (1), (2), and (3) shall be computed from the date of  
37 initial parole and shall be a period chronologically determined.  
38 Time during which parole is suspended because the prisoner has  
39 absconded or has been returned to custody as a parole violator  
40 shall not be credited toward any period of parole unless the prisoner

1 is found not guilty of the parole violation. However, the period of  
2 parole is subject to the following:

3 (A) Except as provided in Section 3064, in no case may a  
4 prisoner subject to three years on parole be retained under parole  
5 supervision or in custody for a period longer than four years from  
6 the date of his or her initial parole.

7 (B) Except as provided in Section 3064, in no case may a  
8 prisoner subject to five years on parole be retained under parole  
9 supervision or in custody for a period longer than seven years from  
10 the date of his or her initial parole.

11 (C) Except as provided in Section 3064, in no case may a  
12 prisoner subject to 10 years on parole be retained under parole  
13 supervision or in custody for a period longer than 15 years from  
14 the date of his or her initial parole.

15 (6) The Department of Corrections *and Rehabilitation* shall  
16 meet with each inmate at least 30 days prior to his or her good  
17 time release date and shall provide, under guidelines specified by  
18 the parole authority, the conditions of parole and the length of  
19 parole up to the maximum period of time provided by law. The  
20 inmate has the right to reconsideration of the length of parole and  
21 conditions thereof by the parole authority. The Department of  
22 Corrections *and Rehabilitation* or the Board of ~~Prison Terms~~  
23 *Parole Hearings* may impose as a condition of parole that a  
24 prisoner make payments on the prisoner's outstanding restitution  
25 fines or orders imposed pursuant to subdivision (a) or (c) of Section  
26 13967 of the Government Code, as operative prior to September  
27 28, 1994, or subdivision (b) or (f) of Section 1202.4.

28 (7) For purposes of this chapter, the Board of ~~Prison Terms~~  
29 *Parole Hearings* shall be considered the parole authority.

30 (8) The sole authority to issue warrants for the return to actual  
31 custody of any state prisoner released on parole rests with the  
32 Board of ~~Prison Terms~~ *Parole Hearings*, except for any escaped  
33 state prisoner or any state prisoner released prior to his or her  
34 scheduled release date who should be returned to custody, and  
35 Section 3060 shall apply.

36 (9) It is the intent of the Legislature that efforts be made with  
37 respect to persons who are subject to subparagraph (C) of paragraph  
38 (1) of subdivision (a) of Section 290 who are on parole to engage  
39 them in treatment.

1     *SEC. 5. Section 3005 of the Penal Code is amended and*  
2     *renumbered to read:*

3     ~~3005.~~

4     3008. (a) The Department of Corrections and Rehabilitation  
5     shall ensure that all parolees under active supervision who are  
6     deemed to pose a high risk to the public of committing sex crimes,  
7     as determined by the State-Authorized Risk Assessment Tool for  
8     Sex Offenders (SARATSO), as set forth in Sections 290.04 to  
9     290.06, inclusive, are placed on intensive and specialized parole  
10    supervision and are required to report frequently to designated  
11    parole officers. The department may place any other parolee  
12    convicted of an offense that requires him or her to register as a sex  
13    offender pursuant to Section 290 who is on active supervision on  
14    intensive and specialized supervision and require him or her to  
15    report frequently to designated parole officers.

16    (b) The department shall develop and, at the discretion of the  
17    secretary, and subject to an appropriation of the necessary funds,  
18    may implement a plan for the implementation of relapse prevention  
19    treatment programs, and the provision of other services deemed  
20    necessary by the department, in conjunction with intensive and  
21    specialized parole supervision, to reduce the recidivism of sex  
22    offenders.

23    (c) The department shall develop control and containment  
24    programming for sex offenders who have been ~~assessed pursuant~~  
25    ~~to Section 5040~~ *deemed to pose a high risk to the public of*  
26    *committing a sex crime, as determined by the SARATSO*, and shall  
27    require participation in appropriate programming as a condition  
28    of parole.

29    *SEC. 6. Section 5054.1 of the Penal Code is amended to read:*

30    5054.1. ~~The Director of Corrections~~ *Secretary of Department*  
31    *and Rehabilitation* has full power to order returned to custody any  
32    person under the ~~director's~~ *secretary's* jurisdiction. The written  
33    order of the ~~Director of Corrections~~ *secretary* shall be sufficient  
34    warrant for any peace officer to return to actual custody any  
35    escaped state prisoner or any state prisoner released prior to his or  
36    her scheduled release date who should be returned to custody. ~~It~~  
37    ~~is hereby made the duty of all~~ *All peace officers to shall execute*  
38    ~~the an order in like manner as ordinary criminal process as~~  
39    ~~otherwise provided by law.~~

40    *SEC. 7. Section 5054.2 of the Penal Code is amended to read:*

5054.2. Whenever a person is incarcerated in a state prison for violating Section 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289, and the victim of one or more of those offenses is a child under the age of 18 years, the ~~Director~~ *Secretary of the Department of Corrections and Rehabilitation* shall protect the interest of that child victim by prohibiting visitation between the incarcerated person and the child victim pursuant to Section 1202.05. The ~~director secretary~~ shall allow visitation only when the juvenile court, pursuant to Section 362.6 of the Welfare and Institutions Code, finds that visitation between the incarcerated person and his or her child victim is in the best interests of the child victim.

*SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to ensure that conforming changes are made to laws relating to sex offenders, it is necessary that this act take effect immediately.*

~~SECTION 1. (a) It is the intent of the Legislature, in enacting Section 2 of this act, to avoid duplicative references to penalties and to make clear that the penalty for violation subdivision (a) of Section 311.4 of the Penal Code is set forth in subdivision (b) of Section 311.9 of the Penal Code.~~

~~(b) This act shall not be construed to do any of the following:~~

~~(1) Repeal the duty of persons convicted of violating Section 311.4 of the Penal Code to register pursuant to Section 290 of the Penal Code.~~

~~(2) Forgive or legalize any conduct prohibited by Section 311.4 or Section 311.9 of the Penal Code, as either of those sections read prior to the enactment of this act.~~

~~(3) Void or make voidable or render invalid any conviction for violation of Sections 311.4 or 311.9 of the Penal Code, as those sections read prior to the enactment of this act.~~

~~(4) Bar any prosecution for violation of Section 311.4 or 311.9 of the Penal Code as those sections read prior to the enactment of this act.~~

~~SEC. 2. Section 311.4 of the Penal Code is amended to read:~~

~~311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor,~~

1 hires, employs, or uses the minor to do or assist in doing any of  
2 the acts described in Section 311.2, shall be punished as specified  
3 in Section 311.9. If the person has previously been convicted of  
4 any violation of this section, the court may, in addition to the  
5 punishment authorized in Section 311.9, impose a fine not  
6 exceeding fifty thousand dollars (\$50,000).

7 (b) Every person who, with knowledge that a person is a minor  
8 under the age of 18 years, or who, while in possession of any facts  
9 on the basis of which he or she should reasonably know that the  
10 person is a minor under the age of 18 years, knowingly promotes,  
11 employs, uses, persuades, induces, or coerces a minor under the  
12 age of 18 years, or any parent or guardian of a minor under the  
13 age of 18 years under his or her control who knowingly permits  
14 the minor, to engage in or assist others to engage in either posing  
15 or modeling alone or with others for purposes of preparing any  
16 representation of information, data, or image, including, but not  
17 limited to, any film, filmstrip, photograph, negative, slide,  
18 photocopy, videotape, video laser disc, computer hardware,  
19 computer software, computer floppy disc, data storage media,  
20 CD-ROM, or computer-generated equipment or any other  
21 computer-generated image that contains or incorporates in any  
22 manner, any film, filmstrip, or a live performance involving, sexual  
23 conduct by a minor under the age of 18 years alone or with other  
24 persons or animals, for commercial purposes, is guilty of a felony  
25 and shall be punished by imprisonment in the state prison for three,  
26 six, or eight years.

27 (c) Every person who, with knowledge that a person is a minor  
28 under the age of 18 years, or who, while in possession of any facts  
29 on the basis of which he or she should reasonably know that the  
30 person is a minor under the age of 18 years, knowingly promotes,  
31 employs, uses, persuades, induces, or coerces a minor under the  
32 age of 18 years, or any parent or guardian of a minor under the  
33 age of 18 years under his or her control who knowingly permits  
34 the minor, to engage in or assist others to engage in either posing  
35 or modeling alone or with others for purposes of preparing any  
36 representation of information, data, or image, including, but not  
37 limited to, any film, filmstrip, photograph, negative, slide,  
38 photocopy, videotape, video laser disc, computer hardware,  
39 computer software, computer floppy disc, data storage media,  
40 CD-ROM, or computer-generated equipment or any other



1 computer-generated image that contains or incorporates in any  
2 manner, any film, filmstrip, or a live performance involving, sexual  
3 conduct by a minor under the age of 18 years alone or with other  
4 persons or animals, is guilty of a felony. It is not necessary to prove  
5 commercial purposes in order to establish a violation of this  
6 subdivision.

7 (d) (1) As used in subdivisions (b) and (c), “sexual conduct”  
8 means any of the following, whether actual or simulated: sexual  
9 intercourse, oral copulation, anal intercourse, anal oral copulation,  
10 masturbation, bestiality, sexual sadism, sexual masochism,  
11 penetration of the vagina or rectum by any object in a lewd or  
12 lascivious manner, exhibition of the genitals or pubic or rectal area  
13 for the purpose of sexual stimulation of the viewer, any lewd or  
14 lascivious sexual act as defined in Section 288, or excretory  
15 functions performed in a lewd or lascivious manner, whether or  
16 not any of the above conduct is performed alone or between  
17 members of the same or opposite sex or between humans and  
18 animals. An act is simulated when it gives the appearance of being  
19 sexual conduct.

20 (2) As used in subdivisions (b) and (c), “matter” means any  
21 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
22 video laser disc, computer hardware, computer software, computer  
23 floppy disc, or any other computer-related equipment or  
24 computer-generated image that contains or incorporates in any  
25 manner, any film, filmstrip, photograph, negative, slide, photocopy,  
26 videotape, or video laser disc.

27 (e) This section does not apply to a legally emancipated minor  
28 or to lawful conduct between spouses if one or both are under the  
29 age of 18.

30 (f) In every prosecution under this section involving a minor  
31 under the age of 14 years at the time of the offense, the age of the  
32 victim shall be pled and proven for the purpose of the enhanced  
33 penalty provided in Section 647.6. Failure to plead and prove that  
34 the victim was under the age of 14 years at the time of the offense  
35 is not a bar to prosecution under this section if it is proven that the  
36 victim was under the age of 18 years at the time of the offense.

37 SEC. 3. This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety within  
39 the meaning of Article IV of the Constitution and shall go into  
40 immediate effect. The facts constituting the necessity are:

1   ~~The existence of duplicative sentencing provisions for the~~  
2   ~~violation of criminal laws prohibiting the use of minors to transport~~  
3   ~~or possess obscene matter with the intent to distribute the obscene~~  
4   ~~matter necessitates that this act be given immediate effect.~~

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6  
7   **All matter omitted in this version of the bill**  
8   **appears in the bill as introduced in Senate,**  
9   **February 5, 2007 (JR11)**  
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